

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DIANA FRANCIS BRATTON
TX-1324411-R

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DOCKETED COMPLAINT NO.
07-120

AGREED FINAL ORDER

On this the 17th day of OCTOBER, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Diana Francis Bratton (Respondent).

In order to conclude this matter, Diana Francis Bratton neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Diana Francis Bratton is a Texas state certified residential real estate appraiser, holds certification number TX-1324411-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about January 27th, 2006, Respondent appraised real property located at 3015 East 51st Street, Austin, Texas 78723 ("the property").
3. On or about March 25th, 2007, the Complainant, Peter Mark Loftus, filed a complaint with the Board. The complaint alleged that the appraisal report omitted material information in violation of USPAP, which impacted the credibility of the report.
4. On or about May 18th, 2007 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property.
 - a) Respondent failed to identify and report the improvement(s) description adequately by not describing the extent and date of the remodeling so that the reader would be informed about the current condition of the improvements;

- b) Respondent failed to provide a brief summary of her determination of the property's highest and best use;
- c) Respondent failed to collect, verify, analyze and reconcile accrued depreciation and did not employ recognized methods and techniques in her cost approach. No physical depreciation was deducted from the cost approach even though she indicated it had a 10 year effective age and 45 years of remaining economic life;
- d) Respondent failed to analyze and reconcile sales comparison data properly and generally did not employ recognized methods and techniques in her sales comparison approach;
- e) Respondent was negligent and did not produce a credible appraisal report due to the problems noted above;
- f) Respondent's report for the property contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(x); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-1(b); 1-1(c); and, 2-1(a).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- c. Attend and complete a minimum, 15 classroom-hour course in the Cost Approach; and,
- d. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 9 day of Oct, 2008.

DIANA FRANCIS BRATTON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 9th day of October, 2008, by DIANA FRANCIS BRATTON, to certify which, witness my hand and official seal.

Notary Public Signature

KATHLEEN T. MOORE

Notary Public's Printed Name




Signed by the Commissioner this 9th day of October, 2008.



Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17th day of October, 2008.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board